

THE EFFECTIVE DATE OF THIS ORDINANCE IS APRIL 1, 2005

ORDINANCE NO. 05-04-365

RE: Establishment of an Elderly or Disabled Homeowner Tax Deferral

PREAMBLE

State law permits the Board of County Commissioners ("Board") to authorize, in certain instances, a payment deferral of county property tax for residential real property that is occupied as the principal residence of an elderly or disabled owner. Annotated Code of Maryland, Tax-Property Article, Section 10-204.

Pursuant to such authority, the Board desires to authorize a payment deferral of county property tax for qualifying elderly or disabled individuals.

A duly advertised public hearing on this proposed Ordinance was held by the Board on March 29, 2005. The public had an opportunity to comment on the proposed Ordinance at this public hearing.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Section 1-8-421 is hereby added to the Frederick County Code to read as follows:

ARTICLE XI: ELDERLY OR DISABLED HOMEOWNERS' TAX DEFERRAL

SECTION 1-8-421.

- (A) THIS REAL PROPERTY TAX DEFERRAL SHALL BE KNOWN AS THE "ELDERLY OR DISABLED HOMEOWNERS TAX DEFERRAL" AND IS AUTHORIZED BY, AND SUBJECT TO, THE PROVISIONS SET FORTH IN THE ANNOTATED CODE OF MARYLAND, TAX PROPERTY ARTICLE, SECTION 10-204.
- (B) A HOMEOWNER IS ELIGIBLE FOR A DEFERRAL OF COUNTY REAL PROPERTY TAXES ON RESIDENTIAL REAL PROPERTY OCCUPIED AS A PRINCIPAL RESIDENCE IF THE HOMEOWNER OR AT LEAST 1 OF THE RESIDING HOMEOWNERS:
 - (1) HAS RESIDED IN THE DWELLING FOR A PERIOD OF AT LEAST 5 CONSECUTIVE YEARS IMMEDIATELY PRECEDING THE DATE UPON WHICH APPLICATION FOR THIS ELDERLY OR DISABLED HOMEOWNERS TAX DEFERRAL IS MADE; AND
 - (2) (a) IS AT LEAST 65 YEARS OF AGE; OR

- (b) HAS BEEN FOUND PERMANENTLY AND TOTALLY DISABLED AND HAS QUALIFIED FOR BENEFITS UNDER:
 - (I). THE SOCIAL SECURITY ACT;
 - (II). THE RAILROAD RETIREMENT ACT;
 - (III). ANY FEDERAL ACT FOR MEMBERS OF THE UNITED STATES ARMED FORCES; OR
 - (IV). ANY FEDERAL RETIREMENT SYSTEM; OR
- (c) HAS BEEN FOUND PERMANENTLY AND TOTALLY DISABLED BY THE FREDERICK COUNTY HEALTH OFFICER; AND
- (3) MEETS THE INCOME ELIGIBILITY REQUIREMENTS SPECIFIED IN SUBSECTION (D) OF THIS ORDINANCE.
- (C) WHILE A QUALIFYING HOMEOWNER IS IN A LONG TERM CARE FACILITY, THE INDIVIDUAL SHALL CONTINUE TO BE CONSIDERED AS HAVING HIS OR HER PRINCIPAL RESIDENCE IN THE QUALIFYING DWELLING FOR PURPOSES OF THIS ELDERLY OR DISABLED HOMEOWNERS TAX DEFERRAL PROGRAM SO LONG AS THE INDIVIDUAL CONTINUES TO OWN THE DWELLING AND FOR SO LONG AS THE DWELLING REMAINS VACANT OR IS THE PRINCIPAL RESIDENCE OF THE QUALIFYING HOMEOWNER'S SPOUSE WHO DOES NOT OTHERWISE QUALIFY FOR THIS TAX DEFERRAL PROGRAM.
- (D) THE COMBINED GROSS INCOME, AS DEFINED IN SECTION 9-104 OF THE TAX-PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, OF THE HOMEOWNERS OF THE RESIDENCE IN QUESTION MAY NOT EXCEED \$55,000.00 (FIFTY FIVE THOUSAND DOLLARS) PER YEAR.
- (E) THE AMOUNT OF REAL PROPERTY ELIGIBLE FOR A PAYMENT DEFERRAL SHALL BE THE DWELLING, GARAGE AND CURTILAGE, AS DETERMINED BY THE SUPERVISOR OF ASSESSMENTS FOR FREDERICK COUNTY.
- (F) THE AMOUNT OF TAX THAT MAY BE DEFERRED SHALL BE THE AMOUNT OF INCREASE IN THE FREDERICK COUNTY PROPERTY TAX FROM THE DATE THE HOMEOWNER ELECTS TO DEFER THE PAYMENT OF THIS TAX. THIS TAX DEFERRAL SHALL ONLY APPLY

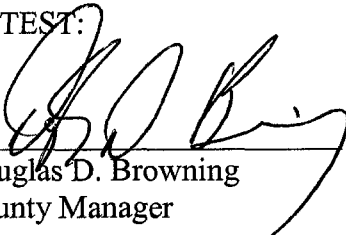
TO THE COUNTY REAL PROPERTY TAX IMPOSED PURSUANT TO MARYLAND ANNOTATED CODE TAX-PROPERTY ARTICLE 6-202 AND SHALL NOT DEFER ANY SPECIAL TAXING DISTRICT TAX INCLUDING TAX FOR FIRE AND RESCUE SERVICES.

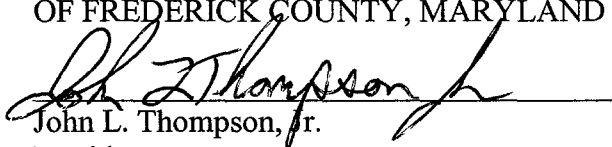
- (G) THE TOTAL AMOUNT OF COUNTY PROPERTY TAX DEFERRED PLUS INTEREST CALCULATED AT THE RATE OF 3% PER ANNUM SHALL BE DUE AND PAYABLE UPON THE LATTER TO OCCUR OF:
- (1) THE DATE THE HOMEOWNER CEASES TO BE ELIGIBLE FOR THIS TAX DEFERRAL UNDER SUBSECTION (B) OF THIS SECTION;
 - (2) IN THE CASE OF THE DEATH OF A QUALIFYING HOMEOWNER WHOSE SURVIVING SPOUSE DOES NOT OTHERWISE QUALIFY FOR THIS TAX DEFERRAL PROGRAM BUT THEREAFTER REMAINS UNMARRIED AND CONTINUES TO OWN AND OCCUPY THE DWELLING AS HIS OR HER PRINCIPAL RESIDENCE, 10 YEARS AFTER THE DEATH OF THE QUALIFYING HOMEOWNER; OR
 - (3) WHEN A SURVIVING SPOUSE OF A QUALIFYING HOMEOWNER, WHO BECOMES QUALIFIED AND THEREAFTER APPLIES FOR THIS TAX DEFERRAL PROGRAM DURING THE TEN YEAR INTERIM PERIOD SET FORTH IN SUBSECTION (G)(2) ABOVE, CEASES TO BE ELIGIBLE FOR THIS TAX DEFERRAL PROGRAM UNDER SUBSECTION (B) ABOVE.
- (H) NOTICE REGARDING A TAX DEFERRAL AUTHORIZED UNDER THIS ORDINANCE, INCLUDING THE AMOUNT OF TAX TO BE DEFERRED, SHALL:
- (1) BE GIVEN TO ANY MORTGAGEE OR BENEFICIARY UNDER A DEED OF TRUST ON THE PROPERTY; AND
 - (2) INCLUDED IN THE ANNUAL PROPERTY TAX BILL FOR THE PROPERTY, WHICH NOTICE SHALL INCLUDE THE CUMULATIVE AMOUNT OF THE DEFERRAL AND ALL RELATED INTEREST.
- (I) THE ELECTION TO DEFER TAXES MUST BE MADE BEFORE SEPTEMBER 15 OF A TAX YEAR IN ORDER TO RECEIVE DEFERRAL OF THE TAXES. QUALIFYING HOMEOWNERS MAY APPLY FOR THIS TAX DEFERRAL WITH THE FREDERICK COUNTY TREASURER'S OFFICE.

- (J) ALL COUNTY REAL PROPERTY AND OTHER TAXES NOT DEFERRED ARE DUE AND PAYABLE AND SUBJECT TO THE SAME INTEREST RATES AS OTHERWISE APPLY TO THESE COUNTY TAXES.
- (K) A LIEN SHALL ATTACH TO THE PROPERTY IN THE AMOUNT OF ALL DEFERRED TAXES AND INTEREST AND SHALL REMAIN ATTACHED UNTIL THE DEFERRED TAXES AND INTEREST ARE PAID. DEFERRED TAXES THAT ARE DELINQUENT MAY BE COLLECTED IN ANY MANNER AS PROVIDED UNDER THE TAX-PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND (INCLUDING THROUGH TAX SALE), BY CIVIL ACTION, OR AS OTHERWISE PROVIDED BY LAW OR EQUITY.
- (L) A TAX DEFERRAL FOR AN ELIGIBLE HOMEOWNER MUST FURTHER BE SPECIFICALLY AUTHORIZED BY AND REFLECTED IN A WRITTEN AGREEMENT CONTAINING THE TERMS AND CONDITIONS OF THE DEFERRAL INCLUDING NOTICE OF THE LIEN. THE COUNTY SHALL RECORD THE AGREEMENT IN THE LAND RECORDS OF FREDERICK COUNTY.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on April 1, 2005.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 29 day of March 2005.

ATTEST:

Douglas D. Browning
County Manager

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

John L. Thompson, Jr.
President

R.J.M.
3/29/05